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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,681	07/31/2003	Tetsuya Matsutani	2003_1039A	7670

513 7590 04/21/2006

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WASHINGTON, DC 20006-1021

EXAMINER

GURLEY, LYNNE ANN

ART UNIT	PAPER NUMBER
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2812

DATE MAILED: 04/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

10

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/630,681	Applicant(s) MATSUTANI, TETSUYA	
	Examiner Lynne A. Gurley	Art Unit 2812	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 21 February 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: 15-17, 22, 24, 26-33 and 35-65.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
13. ☐ Other: _____.


 Lynne A. Gurley
 Primary Patent Examiner
 Art Unit: 2812

35 U.S.C. 102(b) US6,184,121 and U.S.C. 103: US 6,184,121, US 6,329,251 and US 5,656,556;.

Continuation of 11. does NOT place the application in condition for allowance because:

While the Examiner finds that the amendments have overcome the rejection under Buchwalter, the Examiner takes the position that in regard to the rejection of claim 27 under 35 U.S.C. 102(b) as being anticipated by Lee and in regard to the rejection of claims 28-31 under 35 U.S.C. 103 as being unpatentable over Lee in view of Wu and, further in view of Yang, Lee does show a first and second dielectric being deposited with contact holes through the first and second dielectric after both layers have been formed, as discussed in the first embodiment (column 5, lines 4-6; figures 9D and 10C). Although the vias are not explicitly shown, if the vias were made to connect through the first and second dielectric layers to the source/drain contacts, then the figures show that these portions of the dielectric layers have uniform thicknesses. So the rejection has been maintained.

In regard to the rejection of claims 15-17, 22, 24, 26 32-33 and 35-65 under 35 U.S.C. 103, the Wu reference is used to demonstrate the conventional processing of the substrate to have both closely spaced and widely spaced gates/interconnects and Ohno teaches that a contact hole may be made in two different dielectric layers after both are deposited in a similar structure (figs. 14B-16) as an alternative to forming the contact hole in one dielectric layer as shown in Wu. Using two different dielectric layers in interconnect and IMD structures is common practice for reasons such as lowering parasitic capacitance by combining different dielectric layers, thus decreasing the dielectric constant. The first dielectric is uniform in thickness at the portions through which the contact holes are formed as well in Ohno. Although the Examiner understands and has reviewed Applicant's remarks, the broadest interpretation of the prior art of record, especially Lee and Ohno still address the claimed limitations.